



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 18, 2023

By ECF

The Honorable Kenneth M. Karas
United States District Judge
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: *Daniel Libit v. United States Military Academy et al.*, No. 23 Civ. 00845 (KMK)

Dear Judge Karas:

This Office represents the United States Military Academy (the “USMA” or the “Government”) in this action brought by Plaintiff Daniel Libit (“Plaintiff”) under the Freedom of Information Act (“FOIA”). This case concerns FOIA requests submitted by Plaintiff to USMA and the Army West Point Athletic Association (“AWPAA”) seeking records concerning USMA’s intercollegiate athletics programs.

Since the parties’ last status update of July 20, 2023, USMA made a production of non-exempt records responsive to Mr. Libit’s FOIA request on August 18. At this time, USMA believes that it has produced all non-exempt records responsive to Mr. Libit’s FOIA requests. Plaintiff is reviewing redactions made to those records and the parties will confer regarding eleven (11) pages that were withheld in their entirety. With regard to Mr. Libit’s October 7, 2022 FOIA request (as further narrowed on November 21, 2022) that seeks certain emails of General Darryl A. Williams from an “army.mil” email account, USMA did not identify any responsive records. However, USMA is investigating whether the General used any other email addresses during the relevant period for USMA work. If he did, USMA will deem Mr. Libit’s October 7, 2022 FOIA request to include such email addresses and conduct supplemental searches for responsive records.

AWPAA has also made a production of non-exempt records responsive to Mr. Libit’s request, which was produced to Plaintiff on September 15. Several of the remaining documents requested by Plaintiff in the aforementioned FOIA request include information that may potentially be withheld pursuant to 5 U.S.C. § 552(b)(4). As required, AWPAA has contacted the submitting parties who have an interest in the content of the documents and are currently working to determine the extent of the responsive records and proper redactions therein. There are also several responsive email communications between Messner Reeves LLP, AWPAA and USMA, which AWPAA plans to withhold in full pursuant to 5 U.S.C. § 552(b)(5). It is the current belief of AWPAA that all remaining responsive, non-exempt records can be produced in one additional production.

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The parties thank the Court for its consideration of this joint status report and propose to file their next joint status report within 60 days, or by Tuesday, November 14, 2023.

Respectfully,

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